

**STATE OF ILLINOIS  
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST	)	
FOR REVIEW BY:	)	CHARGE NO.: 2009SF0809
	)	EEOC NO.: 21BA83158
<b>DEBRA SIMPKINS</b>	)	ALS NO.: 10-0160
	)	
Petitioner.	)	

**ORDER**

This matter coming before the Commission by a panel of three, Commissioners Robert S. Enriquez, Greg Simoncini and Marti Baricevic presiding, upon Debra Simpkins' ("Petitioner") Request for Review ("Request") of the Notice of Dismissal issued by the Department of Human Rights ("Respondent")<sup>[1]</sup> of Charge No. 2009SF0809; and the Commission having reviewed all pleadings filed in accordance with 56 Ill. Admin. Code, Ch. XI, Subpt. D, § 5300.400, and the Commission being fully advised upon the premises;

NOW, **WHEREFORE**, it is hereby **ORDERED** that the Respondent's dismissal of the Petitioner's charge is **SUSTAINED** on the following ground:

**LACK OF JURISDICTION**

In support of which determination the Commission states the following findings of fact and reasons:

1. The Petitioner was employed by the City of East St. Louis ("Employer") as a Patrol Officer. On September 18, 2008, the Petitioner filed a charge of discrimination with the Respondent against the Employer. The Petitioner alleged the Employer placed her on administrative leave (Count A), denied her benefits (Count B), denied her a shift transfer (Count C), subjected her to harassment (Count E), and recommended her for discharge (Count F), in retaliation for having filed Charge No. 2008SF1837, in violation of Section 6-101(A) of the Illinois Human Rights Act ("Act"). The Petitioner also alleged the respondent denied her a shift transfer because of her sex, female (Count D), in violation of Section 2-102(A) of the Act.
2. The Respondent's 365-day time period to complete its investigation of the Petitioner's charge expired on September 18, 2009. If the Respondent failed to complete its investigation within 365 days, the Petitioner would have 90 days thereafter file a complaint of civil rights violation ("Complaint") either with the Commission or the circuit court.

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<sup>[1]</sup> In a Request for Review Proceeding, the Illinois Department of Human Rights is the "Respondent." The party to the underlying charge who is requesting review of the Department's action shall be referred to as the "Petitioner."

3. On September 23, 2008, the Respondent sent the Petitioner notification that she had the right to file a Complaint between September 19, 2009 and December 17, 2009 if the Respondent failed to complete its investigation by September 18, 2009. This notification also informed the Petitioner as follows: "Once 455 days (or the extended time) have passed, DHR must dismiss your charge with prejudice without any further right to proceed if you have not filed a complaint with the Commission, or commenced a civil action in the appropriate circuit court."
4. The Respondent failed to complete its investigation of the Petitioner's charge by September 18, 2009.
5. On September 30, 2009, the Respondent sent the Petitioner a second notice which again informed the Petitioner of her right to file a Complaint with the Commission or the circuit court from September 19, 2009 through December 17, 2009.
6. On February 22, 2010, the Respondent dismissed the Complainant's charge because the Respondent's 365-day time limit to complete its investigation had expired and the Respondent had no record that the Petitioner had filed a Complaint with the Commission.
7. The Petitioner timely filed her Request on March 2, 2010. In her Request, the Petitioner contends she did not receive notice of the 90-day window to file a Complaint. Attached to the Petitioner's Request was a copy of the Respondent's notification of September 23, 2008.
8. In its Response, the Respondent asks the Commission to sustain the dismissal of the Petitioner's charge for lack of jurisdiction. The Respondent argues that it was required to dismiss the Petitioner's charge pursuant to § 7A-102(G)(3) of the Act.

## **CONCLUSION**

The Commission concludes that the Respondent properly dismissed the Petitioner's charge for lack of jurisdiction. Section 7A-102(G)(1) of the Act requires the Respondent to issue its report within 365 days of the date the charge has been properly filed, or within any extension of that time period agreed to in writing by the parties. See 775 ILCS § 5/7A-102(G)(1). If the Respondent has not issued its report within this time period, the complainant has 90 days to either file a complaint with the Commission or file an action in the appropriate circuit court. See 775 ILCS § 5/7A-102(G)(2). If the complainant files a complaint with the Commission or commences a civil action, or if the 90-day window for filing a complaint expires, the Respondent must immediately cease its investigation and dismiss the charge. See 775 ILCS § 5/7A-102(G)(3).

Although the Petitioner claims in her Request that she did not receive notice of the 90-day window, her argument is not persuasive. In fact, the Petitioner attaches to her Request the notification of September 23, 2008, from the Respondent. The notification of September 23<sup>rd</sup> clearly informed the Petitioner when the 90 day period to file a Complaint would commence. The notification

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also informed the Petitioner of the consequences of her failure to file a Complaint within 90 days: dismissal of her charge with prejudice.

Accordingly, it is the Commission's decision that the Petitioner has not presented any evidence to show that the Respondent's dismissal of his charge was not in accordance with the Act. The Petitioner's Request is not persuasive.

**WHEREFORE, IT IS HEREBY ORDERED THAT:**

The dismissal of the Petitioner's charge is hereby **SUSTAINED**.

This is a final Order. A final Order may be appealed to the Appellate Court by filing a petition for review, naming the Illinois Human Rights Commission, the Illinois Department of Human Rights, and City of East St. Louis as Respondents, with the Clerk of the Appellate Court within 35 days after the date of service of this Order.

**STATE OF ILLINOIS**

**HUMAN RIGHTS COMMISSION**

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**Entered this 18<sup>th</sup> day of November 2010.**

Commissioner Marti Baricevic

Commissioner Robert S. Enriquez

Commissioner Gregory Simoncini